

IN THE SENATE OF THE UNITED STATES.

MAY 20, 1896.—Ordered to be printed.

Mr. GALLINGER, from the Committee on the District of Columbia, submitted the following

REPORT:

[To accompany S. R. 148.]

The Committee on the District of Columbia, having been instructed by a resolution of the Senate, adopted December 3, 1895, as follows:

*Resolved*, That the Committee on the District of Columbia be instructed to inquire and report, by bill or otherwise, as to the order recently made by the Commissioners of the District of Columbia requiring the small farmers and gardeners who have been allowed spaces on the sidewalk around Center Market, with awnings thereon erected by the Washington Market Company for their accommodation in exposing their market products for sale, to remove their products to a point farther west on the same street and sidewalk,

respectfully report to the Senate:

On the 2d day of November, 1895, the Commissioners of the District of Columbia issued the following order:

SIR: The Commissioners direct me to instruct you to prevent the occupancy, by market wagons or stands of produce dealers, of any portion of the sidewalk or roadway on the north side of B street north, between Seventh and Ninth streets west, except so long as such occupancy may be necessary for ordinary use.

Very respectfully,

WILLIAM TINDALL, *Secretary*.

Maj. WILLIAM G. MOORE,  
*Superintendent Metropolitan Police.*

The effect of the execution of this order would have been the prevention of sales of produce by farmers or others on the sidewalk and adjacent north side of B street north, on the south side of Center Market. The execution was stayed by a temporary restraining order, issued November 7, 1895, by the supreme court of the District of Columbia in a suit in equity begun by the Washington Market Company against the District of Columbia. The restraining order is still in force, and the use by farmers and produce dealers of the said part of B street remains as it was before the order of November 2, 1895, by the Commissioners.

There are four parties to the controversy caused by the order: The District Commissioners, the farmers and gardeners, the Washington Market Company, and the housekeepers of Washington City.

The Commissioners claim that farmers and gardeners have no right to sell their produce without license in the District of Columbia "except from door to door;" that, to obtain the right to sell from wagons

remaining stationary on the streets, they must each pay a vender's license fee (\$25) and sell at places assigned them on the streets by the public authorities; that the intention of the Commissioners is to assign to such of these dealers as pay vender's license fee places on the south side of B street between Seventh and Twelfth streets west and on the north side of said street between Tenth and Twelfth streets west. They claim also that "the use of B street by farmers on market days had been permitted without any authority except a city ordinance now obsolete;" that but a small number "of favored ones" can be protected by the shed on the south side of Center Market; that other farmers are without shelter from the weather; that the Washington Market Company had charged a small fee for the accommodations furnished; that the space on B street is needed by patrons of Center Market as an approach to the market by carriages and otherwise, and that two street car lines pass through that part of B street. Other points are made by the Commissioners, but they are either unimportant in this connection or are covered by the pending litigation between the District and the Washington Market Company and need not be mentioned here.

In behalf of the farmers and gardeners, it is claimed that from the establishment, in 1802, of public markets in Washington City they have been accustomed to sell their produce, in market hours, at and near the markets and on the sidewalks, from stationary wagons backed up against the sidewalks; that no other places on the streets were ever assigned to them by public authorities; that they have rarely sold from door to door; that they have never been charged a license fee; that the sixteenth section of the license act of 1871 (chap. 69, 1st Leg. Assembly) exempted "carts and wagons" used "for bringing farm and garden produce to market;" that the twenty-second section of the same act provided "that any person selling produce of his own raising shall not be liable for license for selling the same;" that the application to them of the law of 1888, authorizing, among other things, the charge of a license fee to "street venders," is a perversion of the law; that farmers have been accustomed, since 1802, to use the open spaces or streets on Reservation 7, including B street, without license and as of right, in market hours; that it is better that some should be protected in winter and stormy weather from cold, wind, and rain than that all should be exposed; that they did not complain of the small charge for accommodations furnished by the Washington Market Company, and that since November, 1895, that company had made no charge whatever; that the space on B street occupied by farmers on market days, is not needed for carriages or for street cars; that there is ample room for the passage of street cars; that for the design of the Commissioners in removing them from the north side to the south side of B street, and from B street between Seventh and Ninth to B street between Tenth and Twelfth, they have no sympathy; that they fear an increase of charges consequent on the removal, and that they fear also injury to their health from exposure in the unsheltered place to which the Commissioners intend removing them.

The Washington Market Company claims that the object of the Commissioners in their attempt to force the farmers and gardeners away from Center Market is to build up a rival retail and wholesale market, an object unjust to the company and beyond the legal powers of the Commissioners; that the removal of these two classes would break up the completeness of the market and greatly cripple its business; that said company, since the date of its charter, has paid into the District

treasury, in general, special, and franchise taxes, about \$297,000 and only \$188,000 in dividends to its stockholders, and ought not to be injured by unfriendly action of the public authorities, and that the attraction of said market to buyers for households and public institutions would be greatly lessened by the absence of farmers and gardeners. Other points made by said company are covered by the pending litigation and need not be referred to here.

In behalf of the housekeepers of Washington City, it is urged that it would be to them a serious inconvenience if the retail selling at Center Market of farm produce should cease and they should be compelled in all weather to seek their supplies at places distant and unsheltered, and that their interests will be promoted by leaving the farmers, gardeners, and produce dealers where they are.

After full and careful consideration of the subject and a visit of a subcommittee, during market hours, to the locality in question, your committee do not deem it necessary to discuss the matters more especially in litigation between the District and the Washington Market Company. From the evidence before us we are satisfied that the usage, in the District of Columbia, of allowing farmers and gardeners selling produce of their own raising to sell without license or license fee, during market hours, at and near the markets, from wagons backed up to the sidewalks, is too ancient to be disturbed without better reasons than appear in the present case; also, that there is no existing necessity for the expulsion of these classes from B street north, between Seventh and Ninth streets. We recommend, therefore, the adoption by Congress of the accompanying joint resolution (S. R. 148), "for the relief of farmers and truckmen in the city of Washington, District of Columbia."

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